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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/171,049	10/12/98	REZAI	E JA138

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EXAMINER

PRATT, C

ART UNIT	PAPER NUMBER
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1771

DATE MAILED:

06/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/171,049

Applicant(s)

REZAI ET AL.

Examiner

Christopher C. Pratt

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 20-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 39-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

1. Applicant's election with traverse of claims 1-19 and 39-41 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that applicant is unaware of any rule enabling the Examiner to provide a novelty or obviousness argument as a reason for failing to meet the unity of invention standard. This is not found persuasive because rule 13.2 of the Patent Cooperation Treaty sets forth a two-pronged test for establishing a unity of invention. The first test requires that all inventions must possess a special technical feature. The second test requires that this special technical feature must also define a contribution over the prior art. Even if applicant's inventions meet the first test, the Examiner uses Wang (5849405) to establish that the special technical feature of the inventions does not make a contribution over the prior art and therefore does not comply with the second test. This lack of unity argument does not attempt to establish a novelty or obviousness argument of the instant inventions. It merely points out that applicant's special technical feature is known within the prior art. Accordingly, the instant inventions do not have unity as defined by rule 13.2.

The requirement is still deemed proper and is therefore made FINAL.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1771

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (5849405) in view of Early et al (4468428) and Anjur et al (5645542).

Wang's patent is concerned with the creation of an absorbent material suitable as a disposable diaper comprising absorbent gelling particles comprising a water-insoluble absorbent hydrogel-forming polymer (abstract and col. 4, lines 20-22). Said material further comprising a polycationic polymer and a carrier layer; wherein the polycationic polymer is bonded to the absorbent gelling particles (cols. 9-10, lines 25-35 and col. 6, lines 20-25). Said material further comprising cellulose fibers disposed within said absorbent particles (col. 17, line 7). Wang further discloses said absorbent particles attached to a carrier layer as well as the use of a glue or binder bonded to said particles (col. 13, lines 30-36 and col. 16, lines 40-45). While the use of various polymeric fibers with said polymeric particles is disclosed (col. 17, lines 1-30), Wang fails to specifically teach the use of microfibers as the glue or binder to carry out said attachment.

Early's patent is concerned with the creation of an absorbent material suitable for use as disposable diapers (col. 1, lines 10-15). Early teaches the utilization of thermoplastic, elastic, meltblown, microfibers as a bonding agent. Said fibers including polyvinyls (col. 7, lines 10-23 and 44-47). It would have been obvious to a person of ordinary skill in the art to use the microfibers of Early as the binder used in Wang. Such

a combination would have been motivated by the reasoned expectation of binding the particles to the carrier layer of Wang with a material, which Early teaches to have sufficient strength as well as added absorbent properties (col. 8, lines 9-12).

With respect to claims 9-14 and 18, Wang discloses applicant's claimed polycationic polymers (col. 10, lines 5-35).

Wang discloses particle sizes anticipating applicant's claimed particle sizes (col. 13, lines 40-55) and crosslinking (col. 12, lines 5-67).

With respect to claim 17, Wang further discloses amounts of the components, which comprise said absorbent material anticipating applicant's claimed amounts (col. 11, lines 25-54, col. 16, lines 60-65, and col. 10, lines 33-38).

Wang also discloses a liquid pervious topsheet, a liquid impervious backsheet, and an absorbent core disposed between (col. 4, lines 38-44).

The combination of Wang and Early fail to teach the use of styrene-isoprene-styrene.

Anjur's patent is concerned with the creation of an absorbent material suitable for use as a diaper (col. 1, lines 11-17). Anjur teaches the use of said material comprising styrene-isoprene-styrene fibers (col. 5, lines 20-30). It would have been obvious to a person of ordinary skill in the art to combine the styrene-isoprene-styrene fibers taught by Anjur with the absorbent combination Wang and Early. Such a combination would have been motivated by the reasoned expectation of providing the absorbent combination of Wang and Early with improved elastic properties, which would increase comfort to the wearer (col. 4, lines 15-23).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harada (EP 493011) and Insley (5733629) both seem to disclose elements of applicant's invention.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number and e-mail address is 703-305-6559 and Christopher.Pratt@uspto.gov. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-5408 for regular communications and 703-308-2351 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.



Christopher C. Pratt
June 15, 2000



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700